IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 604 OF 1998

The State of Maharashtra. ...Applicant
V/s.
Prakash Jivan Kunder & Ors. ...Respondents

Mr.R.M. More, APP for State.

CORAM : V.M. KANADE, J.

DATED : JANUARY 10, 2006

P.C. :-

. Heard learned APP for the State. None appears for the respondents.

. This writ petition is filed by the State of Maharashtra challenging the Judgment and Order passed by the Sessions Judge, Thane, who was pleased to set aside the order passed by the Forest Officer confiscating the vehicle.

. Learned APP has taken me through the Judgment and order of the Sessions Judge, Thane. The short question is whether the vehicle of the owner can be seized by exercising the powers vested in it under Section 61A(3) of Indian Forest Act, 1967 particularly

when it is proved by the owner of the vehicle that he had no knowledge about the transportation of contraband. This question has been decided in the Judgment of this Court which is referred to in the Judgment and Order of the trial Court. It is settled position in law that if the owner of the truck rebuts the presumption regarding the absence of knowledge, then the order of confiscation in that event does not survive. The order passed by the Sessions Judge, Thane, therefore, is passed after considering the legal position in this case and there is no reason to interfere with the said Judgment and Order.

. Writ Petition, therefore, is dismissed. Rule is discharged.

(V.M. KANADE, J.)